

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	05-00179-01-CR-W-FJG
EDDIE W. SMITH,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on December 23, 2005. Defendant Eddie Smith appeared in person and with retained counsel John O'Connor. The United States of America appeared by Assistant United States Attorney Rudolph Rhodes.

I. BACKGROUND

On May 10, 2005, an indictment was returned charging Defendant with two counts of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Rhodes announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Detective James Herrengton, Kansas City Police Department.

Mr. O'Connor announced that he will be the trial counsel for Defendant Smith. Tom Porto, legal intern, may assist.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Mr. Rhodes announced that the government intends to call twelve witnesses without stipulations or eight witnesses with stipulations during the trial.

Mr. O'Connor announced that Defendant Smith intends to call six witnesses during the trial. Defendant may testify.

V. TRIAL EXHIBITS

Mr. Rhodes announced that the government will offer approximately thirty-seven exhibits in evidence during the trial.

Mr. O'Connor announced that Defendant Smith will not offer any exhibits in evidence during the trial.

VI. DEFENSES

Mr. O'Connor announced that Defendant Smith will rely on the

defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. O'Connor stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are not likely.

IX. TRIAL TIME

Counsel were in agreement that this case will take three days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed May 25, 2005, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by December 30, 2005;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, January 4, 2006;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, January 4, 2006. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on January 9, 2006. The parties have requested a January 9, 2006, setting due to a witness traveling from California to testify.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
December 23, 2005

cc: The Honorable Fernando J. Gatton
Mr. John O'Connor
Mr. Rudolph Rhodes
Mr. Jeff Burkholder